

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**SUNQUEST PROPERTIES, INC. and
CARRIAGE HOUSE APARTMENTS PARTNERSHIP
PLAINTIFFS**

VS

CIVIL ACTION NO. 1:08-CV-687-LTS-RHW

**NATIONWIDE PROPERTY AND CASUALTY
INSURANCE COMPANY; NATIONWIDE MUTUAL
INSURANCE COMPANY; NATIONWIDE MUTUAL
FIRE INSURANCE COMPANY; and
JOHN DOES 1-5
DEFENDANTS**

**REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFFS' MOTION
TO COMPLETE DISCOVERY AND SUPPLEMENT EXPERT REPORTS**

MAY IT PLEASE THE COURT:

Given the tone of Nationwide's last filing regarding the extension of discovery, undersigned counsel feels compelled to state the following:

1. When undersigned counsel discussed with Nationwide's counsel Robert Gilmore the items which plaintiffs were seeking to produce in order complete their document production, undersigned counsel was told by Mr. Gilmore that **no motion to compel would be filed as long as plaintiffs were trying to comply. A few days later, a motion to compel was filed anyway.**
2. When undersigned counsel discussed with Nationwide's counsel the issue of updating the plaintiffs' expert reports and suggested that undersigned counsel was concerned about letting the court know about the issue, undersigned counsel was told that Mr. Gilmore saw **no point in filing a motion to exclude the experts, as there was plenty of time before trial to redepose the plaintiffs' experts and the Court would**

deny such a motion. A few days later, a motion to exclude plaintiffs' experts was filed.

3. Now Nationwide is even opposing a harmless extension of the discovery cutoff, in a case where **Nationwide's own expert produced his final estimate two days before the discovery cutoff. What evidence was it that Nationwide did not have that justified this delay? Nationwide has had all the pictures and records since the fall of 2005! Plaintiffs did not receive Nationwide's index of the photos until a few days before the discovery cutoff.**

4. If plaintiffs' experts are not allowed to testify, plaintiffs will be deprived of a substantial portion of their proof, which will prejudice plaintiffs severely.

5. All of this can be avoided by an extension of the discovery cutoff.

Respectfully submitted,

/s/ Nathan M. Gaudet

Nathan M. Gaudet (MSB 102608)

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**Attorney for plaintiffs, Sunquest Properties, Inc.
& Carriage House Apartments Partnership**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading has this date been electronically filed using the CM/EFC service which will notify counsel of record via electronic mail of this filing.

New Orleans, Louisiana, this 7th day of December, 2009.

/s/ Nathan M. Gaudet

Nathan M. Gaudet